

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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UNITED STATES OF AMERICA,

Plaintiff,

v.

AVERY CHATMAN,

Defendant.

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Case No. 1:04-CR-126

Hon. Richard Alan Enslen

**ORDER**

On or about April 26, 2007, Defendant Avery Chatman filed a one-page Motion for Clarification of Sentence, which effectively asks the District Court to amend the Judgment of Sentence entered on January 27, 2005. The Judgment imposed an incarceration sentence of 68 months. Defendant Chatman argues that the sentence imposed was “ambiguous” because it failed to state whether the sentence was to be served concurrently or consecutively to a state sentence which Defendant was serving at the time the federal sentence was imposed.

Upon review, the Motion for Clarification of Sentence should be denied because it was filed outside the jurisdictional time period for amendment of sentence.<sup>1</sup> *See* Fed. R. Crim. P. 35(a); *United States v. Vichol*, 460 F.3d 693, 695 (6th Cir. 2006). Furthermore, even were the Court empowered to amend the sentence, it would not do so in this instance. United States Sentencing Guideline section 5G1.3(a) states the general rule applicable to such sentences—that federal time be imposed consecutively to prior state sentences. The circumstances of this sentencing do not warrant different treatment.

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<sup>1</sup>This motion is not appropriately treated as a motion under 28 U.S.C. § 2255 due to its content and because Defendant has previously filed a section 2255 motion raising other issues.

**THEREFORE, IT IS HEREBY ORDERED** that Defendant Avery Chatman's Motion for Clarification of Sentence (Dkt. No. 55) is **DENIED**.

DATED in Kalamazoo, MI:  
May 4, 2007

/s/ Richard Alan Enslen  
RICHARD ALAN ENSLEN  
SENIOR UNITED STATES DISTRICT JUDGE